

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks. By virtue of the amendment, claims 1-22 are pending in the present application of which claims 1, 12, 16, 18 and 21-22 are independent. Claim 12 has been amended. Claims 21-22 are new. No new matter has been added.

Claim 12 was rejected under 35 U.S.C. § 112, second paragraph for having insufficient antecedent basis for the terms “the wireless transmitter” and “the wireless receiver.” This rejection is traversed. The cited terms have been replaced with “the first wireless transceiver” and “the second wireless transceiver,” respectively.

Claims 18 and 20 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S Patent No. 6,157,298 to Garfinkel et al. (“Garfinkel”). Claims 1-6 and 8-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel in view of U.S Patent Application Publication No. 2002/0176595 to Lazzeroni et al. (“Lazzeroni”). Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel in view of Lazzeroni, and further in view of U.S Patent No. 6,142,913 to Ewert (“Ewert”). Claims 12-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel in view of Lazzeroni. Claims 16 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel in view of Lazzeroni. Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel.

Claim Rejection under 35 U.S.C. § 102

The Office Action sets forth a rejection of claims 18 and 20 under 35 USC 102 (e) as allegedly being anticipated by Garfinkel. This rejection is respectfully traversed for at least the following reasons.

Garfinkel does not anticipate the subject matter of independent claim 18.

Specifically, for instance, Garfinkel does not disclose “a processor coupled with said receiver for converting the received signal into an audio signal” or “one or more speakers coupled with said processor, said one or more speakers converting the audio signal into an audible signal for the wearer,” as recited in claim 18. Instead, Garfinkel discloses “a safety helmet with communications and signaling capabilities.” Col. 4, lines 1-2. Garfinkel’s safety helmet includes an electronics control module housing a transceiver. Col. 4, lines 63-65.

Garfinkel’s safety helmet further includes “a microphone 23 which receives sound from the user’s mouth and transforms the sound into audio signals which are forwarded via an electrical connection to the transceiver.” Col. 5, lines 10-14. “The transceiver then, after proper modulation of the audio signal, forwards the signal via electrical connections to antenna 21 which transmits the signals.” Col. 5, lines 14-16. Garfinkel also discloses that “the transceiver receives signals from the antenna 21 and converts these signals to audible sound which is forwarded to earphone assembly 24.” Col. 5, lines 19-21. Thus, Garfinkel fails to disclose “a processor coupled with said receiver for converting the received signal into an audio signal” since Garfinkel only discloses converting signals to audio signals in reference to transmitting signals.

Garfinkel also fails to disclose “one or more speakers coupled with said processor, said one or more speakers converting the audio signal into an audible signal for the wearer” since Garfinkel’s transceiver converts signals to audible sound which is forwarded to the earphone assembly. Accordingly, Garfinkel fails to teach each and every feature of claim 18, and claims 18-20 are believed to be allowable.

In addition Garfinkel fails to teach many of the features of dependent claim 20. Claim 20 recites that “the one or more speakers are positioned near the user’s ears without the one or more speakers contacting the user’s ears.” Garfinkel does not positively disclose speakers positioned near the user’s ears without the speakers contacting the user’s ears. Garfinkel discloses an earphone assembly “situated proximate the user’s ear.” Col. 5, lines 18-19. Garfinkel further discloses that “an automatic squelch circuit is situated within the electronics module, and eliminates unwanted ambient noise.” Col. 5, lines 29-30. Thus, Garfinkel fails to disclose “one or more speakers are positioned near the user’s ears without the one or more speakers contacting the user’s ears,” as recited in claim 20. Therefore, claim 20 is believed to be allowable over Garfinkel.

Claim Rejection under 35 U.S.C. § 103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 1-6 and 8-11

The Office Action sets forth a rejection of claims 1-6 and 8-11 under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel in view of Lazzeroni. This rejection is respectfully traversed for at least the following reasons.

Garfinkel discloses a safety helmet as described above. Garfinkel does not teach any of “a mounting device having at least one port, the mounting device adapted to connect to the bicycle,” “a portable computing device positionable in the at least one port, the portable computing device having one or more digitized audio files thereon,” or “a wireless transmitter coupled with the portable computing device,” as recited in claim 1. The Office Action admits that Garfinkel does not teach a mounting device having at least one port. Office Action, page 4, lines 7-8. In addition, Garfinkel discloses an electronics control module embedded within the outer shell of a helmet. Col. 4, lines 63-64. Thus, Garfinkel does not teach a portable computing device positionable in at least one port of a mounting device adapted to connect to a bicycle.

In fact, it is unclear what the Office Action is referring to as a portable computing device. Since Garfinkel does not teach a portable computing device, Garfinkel does not teach a transmitter coupled with the portable computing device. Since Garfinkel does not teach a wireless transmitter coupled with the portable computing device, Garfinkel also does not teach a wireless receiver positioned on the helmet “receiving the digitized audio signal from the wireless transmitter.”

Lazzeroni discloses “a clampless mounting assembly for use with a helmet for attaching an internal headset to one of a plurality of different types of external electronic audio communications devices.” Abstract. Lazzeroni’s mounting assembly is used with the

helmet, not with a bicycle. See Lazzeroni, page 1, paragraph [0014]. Further, the connections in Lazzeroni are wired connections. See Fig. 4 and page 3, paragraph [0036].

Thus, it would not have been obvious to one of ordinary skill in the art to combine Garfinkel with Lazzeroni because there is no motivation in either reference to combine a safety helmet receiving and transmitting signals through an antenna, such as Garfinkel's safety helmet, with a clampless mounting assembly for connecting a headset connected by wires to an external electronic audio communications device, such as Lazzeroni's. Such a combination would not be operable. Further, even if such a combination were made, the proposed combination would not result in the invention recited in claim 1. Therefore, claim 1 and its dependent claims 2-6 and 8-11 are believed to be allowable over the alleged combination of Garfinkel and Lazzeroni.

In addition, Garfinkel and Lazzeroni fail to teach many of the features of dependent claims 2-6 and 8-11. Applicant reserves the right to pursue such arguments at a later date.

Claim 7

The Office Action rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel in view of Lazzeroni, and further in view of Ewert. This rejection is also respectfully traversed.

Garfinkel discloses a safety helmet as described above. Lazzeroni discloses a mounting assembly as described above. Garfinkel and Lazzeroni fail to teach the invention as claimed in claim 1, from which claim 7 depends, as discussed above. Ewert discloses a system "for interactively controlling the rate of real-time video playback and audio track play-back." Abstract. The system includes "a bicycle, a bicycle wheel speed detector, an

interface unit connected to the wheel speed detector and to a conventional game controller connected to a conventional video game CD player, which in turn is connected to a TV.”

Abstract. Ewert does not teach a mounting device, a portable computing device or a wireless transmitter coupled with a portable computing device. Further, Ewert does not teach a system for use with a helmet. Thus, it would not have been obvious to one of ordinary skill in the art to combine Ewert with Garfinkel and Lazzeroni since there is no motivation in any of the references to make such a combination. Further, even if such a combination were made, the combination would not result in the invention recited in claim 1, from which claim 7 depends.

Further, since Ewert does not teach a portable computing device, Ewert does not teach “a wheel sensor providing wheel speed to the portable computing device,” as recited in claim 7. Thus, claims 1 and 7 are believed to be allowable over Garfinkel, Lazzeroni and Ewert, considered either singly or in combination.

Claims 12-15

Claims 12-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel in view of Lazzeroni. This rejection is respectfully traversed.

Claim 12 recites, *inter alia*, “a mounting device having at least one port, the mounting device adapted to connect to the bicycle,” “a portable computing device positionable in the at least one port, the portable computing device having one or more digitized audio files thereon,” and “first wireless transceiver coupled with the portable computing device, the first wireless transceiver transmitting a digitized audio signal when the portable computing device

is playing a digitized audio file.” As discussed above, it would not have been obvious to one of ordinary skill in the art to combine Garfinkel and Lazzeroni.

As discussed above with respect to claim 1, Garfinkel does not teach “a mounting device having at least one port, the mounting device adapted to connect to the bicycle” or “a portable computing device positionable in the at least one port, the portable computing device having one or more digitized audio files thereon.” Further, Garfinkel does not teach “a first wireless transceiver coupled with the portable computing device,” since Garfinkel does not teach a portable computing device. Lazzeroni teaches a mounting assembly for use with a helmet, not adapted to connect to a bicycle, and having wired connections. Thus, even if combined, any alleged combination of Garfinkel and Lazzeroni would not result in the invention claimed in claim 12.

Claims 16 and 17

Claims 16 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel in view of Lazzeroni. This rejection is respectfully traversed.

Garfinkel does not teach the steps of “providing a mounting device having at least one port, the mounting device adapted to connect to the bicycle, the at least one port adapted to receive the portable computing device” or “providing for a wireless transmitter to be coupled with the portable computing device, the wireless transmitter transmitting a digitized audio signal when the portable computing device is playing a digitized audio file,” as recited in claim 16, since Garfinkel does not disclose a mounting device or a wireless transmitter to be coupled with a portable computing device (discussed above with respect to claim 1).

Lazzeroni teaches a mounting assembly for use with a helmet, not adapted to connect to a

bicycle, and having wired connections. As discussed above, with respect to claim 1, it would not have been obvious to one of ordinary skill in the art to combine Garfinkel and Lazzeroni. Further, even if such a combination were made, the combination would not result in the invention recited in claim 16. Thus, claim 16 and its dependent claim 17 are believed to be allowable over Garfinkel and Lazzeroni.

Further, Garfinkel does not teach “positioning the one or more speaker ear cones near the user’s ears without the one or more speaker ear cones contacting the user’s ears.” As discussed with reference to claim 20, above, Garfinkel teaches that “an automatic squelch circuit is situated within the electronics module, and eliminates unwanted ambient noise.” Col. 5, lines 29-30. Thus, the combination of Garfinkel and Lazzeroni would not result in the invention recited in claim 17.

Claim 19

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Garfinkel. This rejection is respectfully traversed.

As discussed above, Garfinkel does not teach all of the features claimed in independent claim 18. Specifically, Garfinkel does not teach “a processor coupled with said receiver for converting the received signal into an audio signal” or “one or more speakers coupled with said processor, said one or more speakers converting the audio signal into an audible signal for the wearer.” Thus, claims 18 and 19 are allowable over Garfinkel.

Further, Garfinkel teaches an electronics control module embedded in the rear portion of the outer shell of a helmet. Col. 4, lines 63-65. Further, Garfinkel discloses a headlight assembly in the front of the outer shell. Col. 5, lines 52-55. Thus, it would not have been

obvious to one of ordinary skill in the art to place the electronics control module about a front portion of the helmet since Garfinkel's helmet includes a headlight in the front of the outer shell. Therefore, Garfinkel fails to teach a housing that "is positioned about a front portion of the helmet," as recited in claim 19.

Newly Added Claims

Claims 21-22 are newly added and include features not taught or suggested by the prior art, and thus these claims are also believed to be allowable. In particular, independent claim 21 recites, "transmitting a digitized audio signal from a wireless transmitter coupled with the portable computing device when the portable computing device is playing a digitized audio file, the portable computing device mounted on a mounting device connected to a bicycle" and "receiving the digitized audio signal in a wireless receiver positioned on the helmet, the wireless receiver positioned on the helmet." These features are not taught or suggested by the prior art as described above.

Also, new claim 22 recites features similar to independent claim 21. Independent claim 22 recites "means for transmitting a digitized audio signal from a wireless transmitter coupled with the portable computing device when the portable computing device is playing a digitized audio file, the portable computing device mounted on a mounting device connected to a bicycle" and "means for receiving the digitized audio signal in a wireless receiver positioned on the helmet, the wireless receiver positioned on the helmet." These features are not taught or suggested by the prior art as described above.

PATENT

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Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

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